IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

WP(C).No. 8836 of 2007(B)

PETITIONER:

M.N.PURUSHOTHAMAN,AGED 50,S/O.MADHAVAN,
V/341,MANGALODAYAM,MULANTHURUTHY,ERNAKULAM
DISTRICT.

BY ADV. SRI.P.GOPALAKRISHNA MENON
SRI.M.JITHESH MENON

RESPONDENTS:

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1. THE REGIONAL TRANSPORT OFFICER,
(REGISTERING AUTHORITY)ERNAKULAM.

2. THE JOINT REGIONAL TRANSPORT OFFICER,
(ADDITIONAL REGISTERING AUTHORITY)TRIPUNITHURA,
ERNAKULAM DISTRICT.

3. M/S.TATA MOTORS LIMITED 3RD FLOOR,
TUTUS TOWERS,N.H BYE PASS ROAD,PALARIVATTOM,
KOCHI-24.

4. THE TRANSPORT COMIISSIONER,TRANSPORT
BHAVAN,VAZHUTHAKKAD,TRIVANDRUM.

BY GOVERNMENT PLEADER
SRI.U.K.RAMAKRISHNAN
SRI.P.V.LOHITHAKSHAN
SMT.P.VIJAYAMMA
SRI.V.KRISHNA MENON

GOVT.PLEADER SMT.SUDHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON ¾/2007, THE COURT ON 23/05/2007 DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1: TRUE COPY OF SALE CERTIFICATE ISSUED BY DEALER.

EXT.P2: TRUE COPY OF TEMPORARY REGISTRATION.

EXT.P3: TRUE COPY OF REQUEST MADE BY TATA MOTORS LTD.

EXT.P4: TRUE COPY OF LETTER OF 4TH RESPONDENT.

EXT.P5: TRUE COPY OF FORM 22 ISSUED BY THE MANUFACTURER.

EXT.P6: TRUE COPY OF FORM 22a ISSUED BY BODY BUILDER DT. 15/2/2007.

EXT.P7: TRUE COPY OF MEMO OF SECOND RESPONDENT DT. 22/2/2007.

A.K. Basheer, J.

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W.P(C) No. 8836 of 2007-B

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Dated this the 23rd day of May, 2007.

J U D G M E N T

The short but interesting question that has cropped up in this writ petition is whether the registering authority is justified in refusing to issue Certificate of Registration to petitioner's vehicle, to be used as a stage carriage.

2. Relevant facts may be briefly noticed.

3. Petitioner purchased a bus chassis with cowl, wind shield etc. manufactured by Tata Motors Ltd., for the purpose of using it as a stage carriage. A body was fabricated on the chassis and the vehicle was produced before respondent No.2, the registering authority, for obtaining Certificate of Registration . After inspection of the vehicle the registering authority issued Ext.P7 memo to the petitioner informing him that registration cannot be granted since the overall length of the vehicle exceeded the permissible limit. It was noticed by the authority that the length of the chassis frame had been "extended" by welding pieces to the main chassis frame made by the manufacturer. Therefore the petitioner was directed to re-present the vehicle for further inspection after "rectifying the complaints".

4. At the very outset it has to be noticed that the petitioner admits that he had increased the length of the chassis by welding additional pieces to it. However it is contended by the petitioner that he had constructed the body of the vehicle in conformity with the provisions contained in Chapter VII of the Kerala Motor Vehicles Rules 1989. He places heavy reliance on Rule 93(6) of the Central

Motor Vehicles Rules 1989 as well, and contends that the overall length is well below the permissible limit of 60% of the wheel base. It is the specific case of the petitioner that Rule 93(2) of the Central Rules postulates that the overall length of a transport vehicle with rigid frame having 2 or more axis shall not exceed 12 meters. Petitioner points out that the overall length of petitioner's vehicle as noticed by the registering authority in Ext.P7 memo is only 885 cms. Since admittedly the length of the vehicle is well below 12 meters, the registering authority is not justified in refusing to issue Certificate of Registration in respect of petitioner's vehicle, it is contended.

5. It is contended by Ms.Sudha, learned Government Pleader that the petitioner was not justified in increasing the length of the chassis contrary to the maximum length prescribed by the Automotive Research Association of India (ARAI) as revealed from Annexure A of Ext.P3. Since the petitioner had admittedly increased the length of the chassis by welding additional pieces to it, he had violated the prescribed norms of ARAI. If the petitioner is allowed to tamper with the prescribed specifications, the safety of the public will be affected. More importantly, petitioner has violated Rule 126 of the Central Rules by extending the length of the chassis to suit his convenience, it is contended by the learned Government Pleader.

6. It is beyond controversy that every manufacturer of motor vehicles, other than trailers and semi trailers, should submit the prototype of the vehicle to be manufactured by him for test by the Vehicle Research and Development Establishment of the Ministry of Defence of the Government of India or Automotive Research Association of India, Pune, or the Central Machinery Testing and Training Institute, Budni (MP), or the Indian Institute of Petroleum,

Dehradun, or such other agencies as may be specified by the Central Government for granting a certificate by that agency as to the compliance of provisions of the Act and the Central Rules. The above stipulation in Rule 126 of the Central Rules unambiguously mandates that the prototype of every vehicle has to be got approved by the manufacturer. In this case the prototype of the vehicle was approved by ARAI as revealed from Ext.P3. Annexure A in Ext.P3 shows that ARAI has fixed the length of the vehicle in question as 832.5 cms. But the petitioner had admittedly increased the length of the chassis by welding additional pieces to it. The registering authority found that the length of the vehicle was found to be 885 cms. . But the contention of the petitioner is that so long as the overall length of the vehicle does not exceed 12 meters, as permitted by Rule 93(2) of the Central Rules, the registering authority cannot refuse to issue Certificate of Registration.

7. I am afraid the above contention is totally misconceived. First of all it has to be remembered that petitioner cannot be heard to say that he is entitled to tamper with the prototype approved by ARAI, which is a statutory organization. The said organization has fixed the norms or standards of various types of vehicles after conducting tests on the road under various conditions. Petitioner has no case that he has increased the length of the chassis after conducting any research or test even assuming that he has got the authority or sanction of law to do so. As mentioned earlier, the prototype was approved by a statutory authority. In that view of the matter I have no hesitation to hold that petitioner is not entitled to increase the length of the chassis by welding additional pieces to it. Rule 93(2) will not come to the rescue of the petitioner as contended by him. It is true that the above rule of the

Central Rules stipulates that the overall length of a motor vehicle with rigid frame having 2 or more axis shall not exceed 12 meters. But so long as the ARAI has prescribed the maximum length of the prototype of the particular vehicle in question at 832.5 cms., petitioner cannot seek shelter under Rule 93(2), on the plea that even after such increase the overall length has not exceeded the permissible limit. Similarly the contention raised by the petitioner that the registering authority is bound to issue certificate of registration since he has completed the fabrication of the body of the vehicle in conformity with the provisions contained in Chapter VII of the Kerala Motor Vehicles Rules cannot also be countenanced. Significantly the provisions contained in Chapter VII of the Kerala Motor Vehicles Rules do not deal with the overall length of the chassis and the specifications prescribed for the prototype by the competent authority. Those areas are covered by the Central Rules which the petitioner has to necessarily comply with, if he is to obtain a certificate of registration.

Having regard to the entire facts and circumstances I do not find any merit in the contentions raised by the petitioner. The Writ Petition fails . It is accordingly dismissed.

A.K. Basheer
Judge.

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